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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 29, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: MM Docket No. 93-128
Channel 203C2
Belton and Williamston, South Carolina

Dear Ms. Searcy:

Enclosed for filing on behalf of Toccoa Falls College are an original and six (6) copies of its "Supplement to Motion to Enlarge the Issues" against Nazareth Communications, Inc.

Please contact the undersigned in our Washington, D.C. office.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By: John W. Hunter
John W. Hunter

Enclosure

B:SEARCY75.FCC

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 29 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of:

TOCCOA FALLS COLLEGE

et al.,

Applications for Construction
Permit for a Non-commercial
Educational FM Station,
Channel 203C2,
Belton and Williamston,
South Carolina

MM Docket No. 93-128

File Nos. BPED-920113ML

and

BPED-920811MA

To: Administrative Law Judge
Richard L. Sippel

SUPPLEMENT TO MOTION TO ENLARGE THE ISSUES

Respectfully submitted,

MCHAIR & SANFORD, P.A.

By: _____

John W. Hunter
Attorneys for Toccoa Falls College
1155 15th Street, N.W., Suite 400
Washington, D.C. 20005
Telephone: (202) 659-3900

June 29, 1993

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SUPPLEMENT TO MOTION TO ENLARGE ISSUES

Toccoa Falls College ("TFC"), by its attorneys, pursuant to Section 1.229 (f) of the Commission's Rules, hereby requests leave to submit this "Supplement to Motion to Enlarge the Issues." On June 14, 1993, TFC filed a motion to enlarge the issues against Nazareth Communications, Inc. ("NCI"). That motion seeks the specification of misrepresentation and lack of candor issues. It was timely filed within fifteen (15) days after the receipt of newly discovered evidence with respect to the basic qualifications of NCI.

TFC now seeks to supplement that motion with a request for the imposition of a monetary forfeiture against NCI. No prejudice would accrue to NCI by acceptance of the supplement because the time period for it to file an opposition to the motion to enlarge issues has been requested to be extended. In support of its supplement to the motion to enlarge the issues, TFC submits the following comments.

The Hearing Designation Order ("HDO"), DA 93-474, released May 6, 1993, at para. 3, challenges the status of NCI as a qualified educational organization under Section 73.503 (a). The HDO, at para. 4, observes that NCI, in order to demonstrate its educational qualifications, made the following representations in its application, at Section II, Item 2, Exhibit II-1, as amended:

[NCI] plans to work closely with Presbyterian College in Clinton, South Carolina, the proposed Greenville Christian School of the Arts (GCSA), as well as other local educational institutions, in producing and airing programs which have cultural and educational content. As set forth below in greater detail, certain programs to be aired on the proposed station will offer the opportunity for students at the Presbyterian College and the new Greenville Christian School for the Arts to obtain academic credit, and will serve to complement on-campus and in-school instructional courses and educational activities. As part of their class work Presbyterian College GCSA students will work at [NCI's] facility in a number of technical and programming capacities.

NCI made the following representations in amended Exhibit II-2, filed with the Commission on December 30, 1992:

... present plans envision the involvement of students from Presbyterian College in the production of instructional programming consisting of specific College course offerings such as: computer literacy; basic and advanced Bible and theology courses; and, amateur photography.

[NCI] anticipates producing and broadcasting the following programming in conjunction with Presbyterian College:

1. "Presbyterian College Report" --a weekly feature produced by college students and hosted by the faculty and/or staff...
2. "Presbyterian College Forum" --a weekly live one hour program which will be produced by college interns...
3. "From the President's Desk" --a weekly program featuring the President of Presbyterian College, Dr. Orr.
4. "Campus Concerts" --musical concerts held on campus or sponsored by campus organizations would be broadcast by the station.

NCI made the following representations in amended Exhibit IV-4, filed with the Commission on December 30, 1992:

In cooperation with Presbyterian College in Clinton, South Carolina, ... [NCI] will provide instructional, general educational, public affairs, and religious programming...

TFC obtained a sworn statement, dated May 28, 1993, from Dr. Kenneth B. Orr, the President of Presbyterian College. Dr. Orr states that he has reviewed the FCC application of NCI. He unequivocally declares that neither he nor Presbyterian College has ever given consent to cooperate with NCI with respect to the programming proposals in its FCC application. Dr. Orr acknowledges that he had one meeting with NCI's president over a year ago, but no such consent was given. He has had no contact with NCI since that meeting.

Accordingly, a substantial and material question of fact is raised as to whether NCI knowingly and intentionally misrepresented its programming proposals to the Commission, or lacked candor with respect to those proposals. In its application, NCI led the Commission to believe that Presbyterian College was willing to cooperate with it in the presentation of certain programs. Because these programs were instructional or involved campus programs, the affirmative approval of Presbyterian College would be needed in order to truthfully make such representations. However, Dr. Orr emphatically declares that no such approval was given. NCI even represented that it would broadcast a weekly program featuring Dr. Orr, but it either never asked for or received his consent.

NCI's motive for these false and misleading representations in its application is readily apparent. It was attempting to demonstrate to the

Commission that it is a qualified educational organization under Section 73.503
(a). Having the cooperation of a college in producing and broadcasting specific
college-related program proposals would appear impressive and would make it
appear to the Commission that NCI would be advancing an educational program.

Intentional deposit by an applicant can not be tolerated by the Commission

WHEREFORE, in view of the foregoing, TFC urges that the Presiding Judge impose the requested monetary forfeiture against NCI.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By: 

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June 29, 1993

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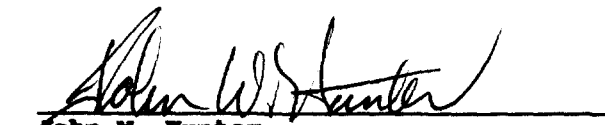
CERTIFICATE OF SERVICE

I, John W. Hunter, an attorney in the law firm of McHair & Sanford, P.A., do hereby certify that on this 29th day of June, 1993, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing 'Supplement to Motion to Enlarge the Issues' to the following:

The Honorable Richard L. Sippel*
Administrative Law Judge
Federal Communications Commission
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2000 L Street, N.W.
Washington, D.C. 20554

Y. Paulette Laden, Esquire
Hearing Branch
Federal Communications Commission
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John W. Hunter

*Hand Delivery